



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7**

11201 Renner Boulevard  
Lenexa, Kansas 66219

**MAY - 2 2017**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Article No.: 7014 1200 0000 6128 1421

John Foscatto General Counsel  
Big Ox Energy, LLC  
6601 County Road R  
Denmark, Wisconsin 54208

Re: Big Ox Energy, LLC claim of Confidential Business Information regarding all information submitted in response to the Clean Air Act information request and all information discovered or gathered by EPA during the facility and other inspections

Dear Mr. Foscatto:

On February 3, 2017, the U.S. Environmental Protection Agency submitted a CBI substantiation request relative to all documents produced on behalf of Big Ox Energy (BOE) as "all Information submitted in response to [EPA's December 22, 2016] CAA Information Request and all information discovered or gathered by EPA during the facility and other inspection" was claimed as confidential business information. In a letter dated February 27, 2017, BOE submitted substantiation to support CBI treatment for two documents – Process Diagram (Exhibit B) and Chart of Daily flow gas to the flare (Exhibit D).

Subsequent to the February 27, 2017 CBI substantiation, BOE has produced additional documents wherein cover letters maintain that all information produced is entitled to treatment as confidential business information. The EPA is seeking to determine the entitlement to confidentiality of this information and at your attorney's request, the EPA is providing a list of all documents provided after February 27, 2017.

This letter is to notify you that the EPA, Region 7 Office of Regional Counsel, will be making a final confidentiality determination concerning the information you have claimed as CBI. If you feel that some or all of the information is entitled to confidential treatment, you must make the showings below with specific reference to those portions of the information you consider confidential.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying and substantiating the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on



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a page, please attach a copy of each such page with brackets around the text that you claim to be CBI. Any information not specifically identified as subject to a confidentiality claim and substantiated as such in your response to this letter may be disclosed without further notice to you. Please note that if a page, document, group or class of documents claimed by you to be CBI contains a significant amount of information which our Office of Regional Counsel determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied.

For each item or class of information that you continue to claim as CBI, please answer the following questions, giving as much detail as possible. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to be entitled to confidential treatment:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the agency becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.

9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the agency of similar information in the future.
10. If you believe any information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data). Your comments must be postmarked or hand delivered to this office, or emailed to [rauch.anne@epa.gov](mailto:rauch.anne@epa.gov), by the 15th working day after your receipt of this letter. You may seek an extension of time to submit your comments to this office, but the request must be made before the end of the 15-day period. Except in extraordinary circumstances, no extension will be approved. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the agency may release the information.

If you wish to claim any information that you provide in your response to this letter to itself be confidential, you must mark the response “**CONFIDENTIAL**” or with a similar designation, and must bracket all text in the response that you so claim. Information so designated will be disclosed by the agency only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information provided in your response as confidential, it may be made available to the public without further notice to you. In addition, please note special rules at 40 C.F.R. § 2.302 govern and limit the confidentiality of certain information obtained under the CAA, including but not limited to emission or effluent data.

Should you have any questions concerning this matter, please contact me at [rauch.anne@epa.gov](mailto:rauch.anne@epa.gov) or (913) 551-7288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anne Rauch", written in dark ink.

Anne Rauch  
Senior Counsel

Enclosure

cc: William M. Guerry Jonathan K. Cooperman  
Kelley Drye & Warren LLP

**CBI Documents in response to EPA's December 22, 2016 Chemical Release Questionnaire (CRQ)**

3/1/2017

Response Letter

Filled Release Questionnaire

Big Ox's Certified Response to EPA CERCLA Release Questionnaire

Filled and Signed Facility Certification

Exhibit A: South Sioux City Fire Incident Report 12-14-2016

Exhibit B: OSHA Inspection

Exhibit C: Release Calculation

Exhibit D: Big Ox Energy Siouxland Facility Map

Exhibit E: Employee Disciplinary Notice

Exhibit F: Air Quality Construction Permit Number CP15-008

Exhibit G: Fact Sheet for Permit Number CP15-008

Exhibit H: Big Ox's filled OSHA's Form 300 Log of Work-Related Injuries and Illnesses

**CBI Documents in Response to EPA's December 22, 2016 Clean Air Act Information Request**

3/22/2017

Exhibit A: Gas Readings Worksheet - SSC.xlsx

Exhibit B: Flare hours.xlsx

Exhibit C: Flare Event Details.xlsx

Exhibit D: John Zink Manual - Biogas Flare System.pdf

Exhibit D: PRY Release Events & Records.xlsx

Exhibit F: Codes & Standards List.pdf

Exhibit G: BOE Siouxland Emergency Action Plan .pdf

Exhibit H: SSC Fire & Occupancy Plan.pdf

Exhibit I: SSC Roof Classification Plan.pdf

Exhibit J: H2S AWARENESS.DOCX

Exhibit K: CONFINED SPACE.DOCX

Exhibit L: HAZCOM.DOCX

Exhibit M: LOCK OUT-TAG OUT.DOCX

Exhibit N: H2S safety training .PDF

Exhibit O: PPE Hazard Assessment - Yeast.pdf

Exhibit P: PPPE Hazard Assessment Dried Blood

Exhibit Q: RESPIRATORY PROTECTION.DOCX

Exhibit R: BOE Siouxland Emergency Action Plan .docx

Exhibit S: Gas Detection Upgrade Summary.docx

Exhibit T: Industrial Scientific - DSX Docking Station.pdf

Exhibit U: Industrial Scientific - Ventis Pro Series.pdf.

3/24/2017

Exhibit A.xlsx: Gas Readings

Exhibit B.xlsx: Flare Monthly Time

Exhibit C.xlsx: Flare Event Details-FT-107 Flow above 2500 scfm

Exhibit E.xlsx: PRV release events and records

3/27/2017

Exhibit C CBI.xlsx: Flare Event Details - FT-107 flow above 2500 scfm

Exhibit D CBI.xlsx: PRV release events and records